

REMARKS

Following entry of the above amendment, claims 58-79 are pending. Applicants amend claims 59, 64, 65, 66, 67, 68, 69, 70, and 72 and add new claims 78 and 79 to add clarity to the claims and to focus on particular embodiments of the invention. Support for the amendment is found in the specification as originally filed. See, for example, the claims as originally filed.

The Office Action states that the application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1 and further requires election amongst the following groups:

Group 1, claim(s) 58-70 and 75-77, drawn to process for producing ethanol comprising treating distillers grain with a fatty acid oxidizing enzyme, and then further recovering starch from the treated grains and further treating the starch; and

Group 2, claim(s) 58-62 and 70-77, draw to a process for producing ethanol comprising treating distillers grain with a fatty acid oxidizing enzyme, and then further recovering a protein from the treated grains and further treating the protein.

Applicants provisionally elect, with traverse, Group 1, claims 58-70 and 75-77. Applicants submit that new claims 78 and 79 also encompass the elected invention as the claims depend from claims 68 and 70, respectively. Therefore, Applicants provisionally elect, with traverse, Group 1, claims 58-70 and 75-79

The Office Action states that the inventions of Groups 1 and 2 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The Examiner further states that Grichko (US2004/0253696) anticipates "claim 58, at least," and discloses fermentation processes, including fermentation of grains by yeast, wherein the grains are treated with fatty acid oxidizing enzymes and concludes that the process of producing ethanol involving treatment of grains with a fatty acid oxidizing enzyme does not provide a contribution over the art, so unity of invention is lacking. Applicants respectfully disagree.

The Office Action states that the special technical feature which links Groups 1 and 2 is the generic process of producing ethanol involving treatment of grains with a fatty acid oxidizing enzyme. Applicants submit that the Examiner has improperly characterized the special technical feature that is shared amongst Groups 1 and 2. Applicants submit that the special technical feature that is shared amongst Groups 1 and 2 is a process for producing ethanol comprising the step of treating distillers' grains with a fatty acid oxidizing enzyme. Applicants encourage the Examiner to review page 4 lines 34-36 and page 5 lines 1-32 that describe distillers' grains.

Furthermore, the Office Action states that Grichko discloses fermentation processes, including fermentation of grains by yeast, wherein the grains are treated with fatty acid oxidizing enzymes. Applicants respectfully note that the Examiner has mischaracterized the disclosure of Grichko. Grichko discloses a process for producing a fermentation product in a fermentation medium which process comprises subjecting the fermentation medium to at least one fatty acid oxidizing enzyme. Applicants encourage the Examiner to review paragraph 0025 which details the meaning of "fermentation medium."

Since Grichko does not disclose the special technical feature that is shared amongst Groups 1 and 2, Applicants submit that the inventions of Groups 1 and 2 do not lack unity of inventions. Thus, Applicants respectfully request reconsideration and withdrawal of the election requirement and examination of claims 58-79 on the merits.

To be completely responsive to the outstanding Office Action, Applicants note that the Examiner states that "[c]laim 58, at least, is anticipated by Grichko (2004/0253696)." However, the Office Action does not include a rejection under any section of 35 USC §102. Therefore, Applicants response only addresses Grichko with respect to the requirement for election under PCT Rule 13.1.

Applicants believe the present claims are in condition for allowance and such action is respectfully requested. Applicants believe that no other fees are due in connection with the filing of this paper other than those specifically authorized herewith.

Should any other fees be deemed necessary to effect the timely filing of this paper, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-1701.

If the Examiner has any outstanding issues with the pending claims, the Examiner is encouraged to telephone the undersigned for expeditious handling.

Respectfully submitted,

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